



U.S. Department of Justice

Environment and Natural Resources Division

Law and Policy Section  
P.O. Box 4390  
Ben Franklin Station  
Washington, DC 20044-4390

Telephone (202) 514-1442  
Facsimile (202) 514-4231

DEC 06 2007

Clerk of the Court  
U.S. District Court for the  
Northern District of California (Oakland)  
1301 Clay St., Rm. 400 South  
Oakland, CA 94612-5212

Re: Northern California River Watch v. City of Ukiah, et al., Case No.  
4:04-CV-04518-CW

Dear Clerk:

On November 1, 2007, the Citizen Suit Coordinator for the Department of Justice received a copy of the proposed amended consent judgment in the above-referenced case for review pursuant to the Clean Water Act, 33 U.S.C. § 1365(c)(3). This provision provides, in relevant part:

No consent judgment shall be entered in any action in which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator.

See also 40 C.F.R. § 135.5 (service on Citizen Suit Coordinator in the U.S. Department of Justice). A settlement that does not undergo this federal review process is at risk of being void.

The United States has no objection to entry of the amendment to the consent judgment. We accordingly notify the Court of that fact.

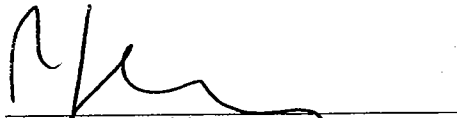
The United States affirms for the record that, under prevailing law, it is not bound by this settlement. See, e.g., Martin v. Wilks, 490 U.S. 755, 762 (1989) ("A judgment or decree among parties to a lawsuit resolves issues as among them, but does not conclude the rights of strangers to those proceedings"); Hawthorn v. Lovorn, 457 U.S. 255, 268 n.23 (1982) (Attorney General is not bound by cases to which he was not a party); United States v. Atlas Powder, 26 Env't Rep. Cas. (BNA) 1391 (E.D. Pa. 1987) (The United States is not bound by settlement agreements or judgments in cases to which it is not a party); 28 U.S.C. §§ 516, 519; 131 Cong. Rec. 15,633 (June 13, 1985) (statement of Senator Chafee, on Clean Water Act section 505(c)(3), confirming that the United States is not bound by settlements when it is not a party). The United States also notes that, if the parties subsequently propose to modify any final consent judgment entered in this case, the parties should so notify the United States, and provide the United States with a copy of the proposed modifications, forty-five days before the court enters any such modifications. See 33 U.S.C. 1365(c)(3).

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We appreciate the attention of the Court. Please contact the undersigned at (202) 514-0750 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Justin Smith', is written over a horizontal line.

R. Justin Smith, Attorney  
U.S. Department of Justice  
Environment and Natural Resources Division  
Law & Policy Section  
P.O. Box 4390  
Washington, D.C. 20044-4390

cc: Counsel of Record